

State Board of Equalization
OPERATIONS MEMO
For Public Release

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SUBJECT: LUMBER PRODUCTS ASSESSMENT

I. OVERVIEW

Beginning January 1, 2013, the Sales and Use Tax Department is responsible for administering a one percent (1%) assessment imposed on the purchase of lumber products and engineered wood products, for use in California, based on the selling price. Under the new law (Public Resources Code §§ [4629 -4629.13](#)), retailers selling lumber products or engineered wood products will be required to charge and collect the 1% assessment on sales of these products to consumers. The new law affects retailers of lumber products and engineered wood products and purchasers, including construction contractors who use these products in California.

The new law allows retailers to offset reimbursement start-up costs per Sales and Use Tax [Regulation 2000](#) (see Section VII (B)).

The money collected under the lumber products assessment will fund various agencies to support California's forest resources, including the Department of Forestry and Fire Protection (CAL FIRE). The Board of Equalization (BOE) is responsible for administering the new program pursuant to the Fee Collection Procedure Law (FCPL).

II. LUMBER PRODUCTS AND ENGINEERED WOOD PRODUCTS

The State Board of Forestry and Fire Protection (BOF) is responsible for identifying specific products subject to the assessment. As required under the new law, BOF adopted an [Emergency Regulation, Lumber Products Assessment](#), which identifies products subject to the assessment. BOF is responsible for annually updating the regulation.

A. Lumber products and engineered wood products subject to the assessment

In general, lumber products and engineered wood products subject to the 1% assessment are defined as *primary* wood products produced directly from forest trees in which wood is a principal component (at least 10% of total content). However, wood products that have been manufactured, assembled, processed, or produced from primary wood products are not subject to the 1% assessment, such as, *secondary* wood products where there has been additional labor that adds significant value to the product.

Lumber Products Assessment Regulation, §1667.3, defines *lumber product* to mean:

...a product in which wood or wood fiber is a principal component part, including, but not limited to, a solid wood product, or an engineered wood product that is identified in these regulations. "Lumber Product" does not include furniture, paper products, indoor flooring products such as hardwood or laminated flooring, bark or cork products, firewood, or other products not typically regarded as lumber products.

Lumber Products Assessment Regulation, §1667.3, defines *engineered wood product* to mean:

...wood composite products including inorganic-bonded and wood thermoplastic composites. It includes a range of derivative wood products which are manufactured by binding lumber or the strands, particles, fibers, or veneers of wood, together with adhesives, to form composite materials, in which wood is a principal component part as defined.

A listing of specific products subject to the assessment and examples of products not subject to the assessment are provided in the [Lumber Products Assessment Regulation](#). BOF is currently in the process of drafting a permanent regulation which will include additional guidance and an expanded list of products.

In addition, see the [Lumber Page](#), under Industry Topics on the BOE website, for examples of products subject to and excluded from the 1% assessment.

B. Products Not Listed or Defined

Staff may receive questions from taxpayers about whether a specific item is subject to the 1% assessment. If the product is not listed in the Lumber Products Assessment Regulation and further direction is needed, staff should forward the inquiry to the Audit and Information Section by clicking the link for AIS on the Tax Policy Division page on eBoe, and under Current Projects, click the link under [Lumber Fee](#).

When forwarding product inquiries to AIS, staff should, if possible, obtain a link to a website, or other descriptive information about the product in question. When appropriate, AIS will forward product inquiries to BOF for their determination.

Determinations from BOF regarding product inquiries will be added to the [Lumber Page](#) as necessary.

III. OTHER INFORMATION

A. Penalty and Interest

FCPL §§55042 and 55042.5 provide for the imposition of penalty and interest on outstanding lumber products assessment liabilities as established pursuant to Revenue and Taxation Code §6591.5.

B. Bad Debts

The lumber products assessment law does not contain a provision to allow a retailer to claim a bad debt deduction for the lumber product assessment.

C. Tax-paid Purchases Resold

The lumber products assessment is imposed on the consumer; therefore, the tax-paid purchase resold deduction does not apply.

D. Claim for Refund

Taxpayers may file a claim for refund for overpayments of the 1% assessment pursuant to FCPL §§ 55221-55281.

E. Fixed Price Contracts

The lumber products assessment law does not contain an exemption for fixed price contracts. Therefore, lumber or engineered wood products sold or purchased on or after January 1, 2013 are subject to the 1% assessment, even if they are sold as part of a fixed price contract entered into prior to January 1, 2013.

F. Collection Cost Recovery Fee

Current law provides for the imposition of a collection cost recovery fee (CRF) on unpaid liabilities. Only one CRF is assessed per liability. Liabilities encompassing multiple reporting periods (e.g., audits, multiple period compliance assessments) are subject to one CRF, whereas, if multiple liabilities exist for specific reporting periods, a separate CRF will be assessed for each. (See Operations Memo 1182, subsection III (B)).

For purposes of determining the CRF on unpaid liabilities that include both sales and use tax and lumber products assessment liabilities, the two liabilities will be combined and considered one liability.

IV. SYSTEM CHANGES**A. eReg - Taxpayers Registering a Business Activity (New Accounts)**

Beginning December 17, 2012, the eReg system was updated with additional vetting questions to ask taxpayers if they sell or purchase lumber products or engineered wood products as part of their business activities. Taxpayers registering a new business activity using eReg who indicate their business activities include selling or purchasing lumber or engineered wood products will automatically be identified by the new code 039 in the Account Characteristic Code (ACC) field in IRIS. New accounts that are identified by ACC 039 will result in:

- A lumber schedule added to the taxpayer's electronic sales and use tax return.
- The creation of the separate lumber financial obligation (LUM FO) for the lumber products assessment revenue.
- Placing taxpayers on a quarterly (or quarterly prepay) reporting basis (*with the exception of temporary accounts*).

1. Reporting Basis

Under the new law, the lumber products assessment is payable on a quarterly basis. However, under FCPL §55041.1, the BOE may determine the reporting period. New accounts registered beginning December 17, 2012, and identified as sellers or purchasers of lumber or engineered wood products (ACC 039) will automatically be placed on a quarterly or quarterly prepay reporting basis.

Accounts registered prior to December 17, 2012, and sent Special Notice [L-339](#) (i.e., retailers who file returns on other than an annual basis) had their accounts updated with ACC 039; and any monthly reporting basis taxpayers were changed to quarterly. Taxpayers that were changed to a quarterly reporting basis and that subsequently request to have the lumber schedule removed should *not* have their reporting basis automatically changed back to monthly.

Accounts registered prior to December 17, 2012, and sent Special Notice [L-343](#) (i.e., retailers who file annual returns) that requested the lumber schedule be added to their account (add ACC 039) may remain on an annual reporting basis (FCPL § 55041.1 provides that the BOE may administratively allow reporting basis other than that required under the new lumber products assessment law).

With the exception of temporary accounts, beginning January 1, 2013, all accounts that are on other than a quarterly (or quarterly prepay) reporting basis that request (initiated either by staff or taxpayer) an update to their account to include the lumber schedule (add ACC 039) should be placed on a quarterly or quarterly prepay reporting basis.

Staff should follow existing procedures to determine if quarterly or quarterly prepay reporting basis is appropriate.

2. Adding a Sub Location

Beginning December 17, 2012, taxpayers using eReg to add a new location to an existing account will be asked if the business activities at the new location include selling or purchasing lumber or engineered wood products. Taxpayers previously not identified with ACC 039 adding a new location that indicate they will now be selling or purchasing lumber or engineered wood products will have ACC 039 added to their account.

The registration system will create an assignment in Assignment Control (ASC) for district staff to manually create a prior period financial obligation for lumber (FOLUM in IRIS) when a new sub location selling lumber has a start date earlier than the current period is added to an existing account.

B. eFile

1. Electronic Filing of Lumber Products Assessment Required

The new law requires electronic filing of the lumber products assessment. **There will be no paper return available to taxpayers to use in reporting and paying**

the lumber products assessment. If staff receives a paper return from a taxpayer attempting to report their lumber products assessment, staff must contact the taxpayer and inform the taxpayer that they must electronically file their lumber products assessment return. Staff should direct taxpayers to their local BOE office, library, or other nearest Internet access and instruct the taxpayer on how to efile the lumber products assessment.

2. Report 1% Assessment using eFile

Beginning with first quarter 2013 (1Q13) reporting period, taxpayers that have been identified as lumber retailers (ACC 039) will be prompted to complete a lumber schedule to report and pay their lumber products assessment when e-filing their sales and use tax returns. The lumber schedule will consist of the following lines:

1. Lumber Products Transactions
2. Assessment Amount
3. Reimbursement Cost
4. Assessment Due (net of Reimbursement Cost)
5. Penalty
6. Interest

Taxpayers must enter an amount (including zero if applicable) as *Lumber Products Transaction*. The *Assessment Amount* will be automatically computed (as 1% of *Transactions*) and entered. *Reimbursement Cost* not to exceed the computed *Assessment Amount* may be entered as described in [Regulation 2000](#). The *Assessment Due* will be automatically computed and entered.

When e-filing a sales and use tax return that includes the lumber schedule, the *Review Filing* page will allow the taxpayer to review (and correct, if necessary) the amounts reported for both sales and use tax (SUT) and the lumber products assessment (LUM). Taxpayers will again see the separate amounts reported for SUT and LUM on the *Confirm Filing* page.

3. eFile Lumber Only

The majority of taxpayers will report the lumber products assessment when e-filing their sales and use tax return and are prompted to complete the additional lumber schedule beginning with the first quarter 2013 (1Q13) returns. However, taxpayers that are ineligible or exempt from e-filing their sales and use tax returns will still be required to electronically file a “lumber only” return to report and pay their lumber products assessment. A “lumber only” return will be available under eFile for these taxpayers beginning in April 2013.

4. Purchasers Paying An Assessment on One-Time Purchase

Purchasers buying lumber or engineered wood products for use in this state without paying the 1% assessment to a registered California retailer must report and pay the assessment directly to the BOE. The eReg system will be updated in

April 2013 to allow purchasers to report and pay the 1% assessment (while also paying any applicable use tax) on a one-time purchase of lumber or engineered wood products. Purchasers will not be able to report and pay the lumber products assessment on their state income tax return (Franchise Tax Board).

5. Amended Returns

Taxpayers that need to amend their lumber products assessment will do so in the same manner as other e-filed returns; i.e., write the correct amounts on the *Confirm Filing* page of the e-filed return, write “Amended Return” across the top, and include any additional amounts owed and mail to BOE.

If the amended return results in an overpayment, taxpayers must file a claim for refund.

C. ePay

1. ePay (Electronic Payment)

Taxpayers will be able to electronically pay combined SUT and LUM liabilities owed on a return or an accounts receivable (for example, audits or compliance assessments) using ePay.

Taxpayers will be able to enter the amount they wish to pay toward each liability and to review and confirm the entered payment amounts on the *Review Payment* page.

Proposed revisions to payment application rules for taxpayers with both a SUT and LUM liability are ongoing. Any revisions to the payment application rules will be provided in a revised Operations Memorandum.

2. EFT (Electronic Funds Transfer) Payments

Taxpayers currently may make their EFT payment directly with the BOE when e-filing their return or through a third-party payment processor. The BOE’s third-party payment processor is unable to distinguish payments that include LUM remittances. Therefore, taxpayers should make their EFT payments that include the lumber products assessment when they electronically file their return or make a payment through the BOE website. Additional procedures for these payments will be provided in a revised Operations Memorandum.

3. Credit Card Payments

Taxpayers who have both a SUT and LUM liability will be able to pay by credit card either through eFile, or directly to the BOE’s credit card vendor, Official Payments Corporation (OPC). Proposed revisions/updates for credit card payments with both SUT and LUM remittances are currently ongoing. New procedures for credit card payments will be provided in revised Operations Memorandum.

4. Single Payment Voucher for SUT and LUM Liabilities

Taxpayers e-filing their return and choosing to pay by paper check will receive a single payment voucher showing separate amounts due for SUT and LUM liabilities. In addition, taxpayers that do not pay either their SUT or LUM liability in full (i.e., partial remittances) will receive a single payment voucher showing the remaining amounts due for SUT and LUM.

D. Integrated Revenue Information System (IRIS)

1. Differences and Notice of Determination

The difference screens (DIF) in IRIS will be revised to show separate differences for sales and use tax (PER) and lumber products assessment (LUM) that are linked together under the same period and/or liability.

A Notice of Determination that includes differences for both sales and use tax and the lumber products assessment will have the differences listed separately.

2. Additional IRIS Revisions

IRIS revisions for the lumber products assessment for difference (DIF), revenue (REV), delinquency (DEL), refunds (REF), audit (AUD), and appeals (APL) are ongoing and scheduled to be implemented in July 2013.

New IRIS revisions and relevant procedures for the lumber products assessment will be provided in a revised Operations Memorandum.

3. Separate Financial Obligations

In IRIS a financial obligation (FO) is used to as a placeholder (obligation) for the revenue to be collected (such as a return, an audit, or compliance assessment) for a specific time period. Currently, most revenue collected under the sales and use tax law goes to an FO type, designated as PER (periodic). Since revenue collected for the lumber products assessment must be deposited separately from sales and use tax revenue, a separate FO type has been created for the lumber products assessment, designated as LUM.

4. Automated Compliance Management System (ACMS)

Revisions to ACMS for the lumber products assessment are ongoing and scheduled to be implemented in July 2013. New procedures for ACMS will be provided in a revised Operations Memorandum.

V. **ROLES AND RESPONSIBILITIES**

A. Sales and Use Tax Department (SUTD) Responsibilities

1. Account Maintenance

Upon a taxpayer's request to update their account to either include or remove the lumber schedule, authorized staff must:

- Add/remove ACC 039 using TAR AM and enter appropriate comments, for example, 1) taxpayer does not sell lumber/engineered wood products; ACC 039 removed, or 2) taxpayer requested lumber schedule to report sales/purchases; ACC 039 added.
- Review the taxpayer's reporting basis.

Staff must follow existing procedures to notify the taxpayer in writing of any reporting basis change.

2. Lumber Financial Obligations (LUM FO)

The FO's are normally created through return addressing and registration changes (for example, changes in start/close-out dates or changes in reporting basis). However, staff should be alert to situations in which assignments are made to staff to manually create LUM FO's for prior period start dates of lumber products assessment activities.

3. Collections

A single collector will be responsible for collecting on accounts that include outstanding liabilities for sales and use tax and the lumber products assessment. Procedures for allocating collected amounts to the liability will follow current payment application rules; i.e., collected amounts will be first applied to the sales and use tax liability until the tax is paid in full, then any additional amounts collected will be allocated to the lumber products assessment liability, after which standard procedures apply to any penalty and interest due.

4. Use Tax Administration Section (UTAS)

UTAS investigations (for example, the U.S. Customs Program and the Interstate Commerce Analysis Team) may result in unreported lumber or engineered wood products subject to the 1% assessment as well as the use tax. UTAS investigations should include the lumber products assessment in their billings when applicable.

VI. AUDITS

Audit staff will be responsible for verifying that affected taxpayers are in compliance with the lumber products assessment program (see **Section VIII**, subsection A, **Retailer's Responsibilities**).

A. Verification by Audit Staff during Sales and Use Tax Audit

During a sales and use tax audit involving the lumber products assessment, audit staff should verify that:

- Taxpayer's account is correctly coded with ACC 039. If not, inform appropriate staff to update the ACC to 039.
- Taxpayer accurately categorizes products subject to the 1% assessment.
- Recorded sales (and purchases, if applicable) reconcile to reported transactions subject to the 1% assessment.

- Allowable reimbursement for start-up costs (\$250 per location) is offset against reported transactions.

Audit staff should be alert to any lumber or engineered wood products which the taxpayer erroneously did not charge the 1% assessment and ensure all amounts charged are remitted. Audit staff should advise the taxpayer to begin collecting the 1% assessment and document in the audit report that the taxpayer was advised the (specific) product is subject to the 1% assessment.

B. Audit Reports

BOE programmers will begin revising the BOE audit program for the lumber products assessment in January 2013 for implementation in July 2013. New procedures for completing audit reports will be provided in a revised Operations Memorandum.

VII. APPEALS AND PROTESTS

A. Protests of Products Subject to the Assessment

BOF is responsible for determining which products are subject to the 1% assessment. The BOE may petition the Executive Officer of BOF for a review of whether a product is subject to the 1% assessment by submitting a petition that includes the specific basis on which the lumber product may or may not meet the criteria established pursuant to PRC [§4629.3](#).

The Executive Officer of BOF shall complete the review of the petition within 30 days of its receipt (or the receipt of any additional information that may have been requested). The Executive Officer of BOF shall determine whether or not the product(s) in the petition is subject to the lumber products assessment.

In general, after the Executive Officer of BOF has made their determination, there is no further appeal. However, a taxpayer may directly petition the BOF to initiate rulemaking to address their issue, or to ask BOF to modify the regulation during its annual review.

1. District Responsibility

If a taxpayer makes a protest directly to the district (including through a sales and use tax audit) that a specific product(s) is not subject to the 1% assessment, the district will be responsible for reviewing the taxpayer's protest and verifying that:

- The protested product(s) are not specifically included in the Lumber Products Assessment Regulation.
- The protested product(s) were not reviewed by BOF based on a previous inquiry to BOF for additional guidance and/or added to the BOE's Lumber Page (see **Section II, Lumber Products and Engineered Wood Products**).
- The protest includes the basis upon which the protest is made.

After verifying the above, the district should submit the protest to [AIS](#).

2. Headquarters Responsibility

Until further notice, AIS will be responsible for forwarding petitions to BOF for their review. AIS will inform the district of BOF's determination.

B. Protest Other than Products Subject to the Assessment

Protests of the lumber product assessment other than whether a product is subject to the assessment will be handled in the same manner as protests and appeals of other Sales and Use Tax and Special Taxes liabilities (See Operations Memo [1118](#), revised 10/31/08).

VIII. RETAILERS

A. Retailer's Responsibilities

Retailers of lumber products and engineered wood products are required to:

- Charge and collect the 1% assessment on sales of lumber products or engineered wood products for use in this state.
- Separately state the amount of the lumber products assessment on the sales receipt given to the customer.
- Report and pay the lumber products assessment to the BOE on their sales and use tax return.
- Notify the BOE if their sales and use tax return does not include the lumber schedule.

B. Reimbursement Start-Up Costs

Retailers of lumber products or engineered wood products may reimburse themselves for \$250 per business location as start-up costs associated with the collection of the 1% assessment. A "location" is defined as a business location registered under the retailer's seller's permit as of January 1, 2013, where sales of products subject to the assessment are made.

Retailers may offset their reported lumber products assessment for the allowable start-up costs beginning with their first return upon which the lumber products assessment is reported and continuing on consecutive returns until the entire reimbursement amount is retained.

Retailers that are not in the business of selling lumber products or engineered wood products prior to the imposition of the lumber products assessment on January 1, 2013, are not allowed to reimburse themselves for any start-up costs.

IX. PURCHASERS

Purchasers, including construction contractors, who purchase lumber or engineered wood products for use in California who do not pay the 1% assessment to a registered California retailer are required to report and pay the assessment directly to the BOE. The lumber products assessment cannot be reported and paid on the California State income tax return (Franchise Tax Board).

Construction Contractors

The new law may affect contractors who act as either retailers or consumers of lumber or engineered wood products. Construction contractors that act:

- As a consumer of lumber or engineered wood products must pay the assessment to their California vendors.
- As a consumer of lumber or engineered wood products purchased from outside of California for use in this state must pay the 1% assessment directly to the BOE.
- As a retailer of lumber or engineered wood products are required to charge and collect the 1% assessment from their customers and report and pay the assessment to the BOE when e-filing their sales and use tax return.
- As a retailer of items that they manufacture, assemble, process, or produce from lumber or engineered products (for example, prefabricated cabinets), are not required to pay the assessment on their subsequent sale of the items.

X. OBSOLESCENCE

This operations memorandum will become obsolete when the information contained herein is incorporated into the appropriate manuals.



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